

Ordinance # 115
Noise

1. Purpose
2. Definitions
3. Exceptions
4. Noise Disturbance Prohibited
5. Limits
6. Construction Noise Curfew
7. Specific Activities Prohibited
8. Regulation of Sound Equipment and Sound Amplifying Equipment
9. Construction
10. Animals and Birds
11. Variance
12. Administration Appeals and Remedies

Noise

1. Purpose
 - a. Authority, Name. This Ordinance is adopted by the Board of Directors of the Tulalip Tribes pursuant to Article 6 Section 1.k. of the Constitution of the Tulalip Tribes and shall be referred to as the Tulalip Noise Abatement Ordinance.
 - b. Findings. The Board of Directors of the Tulalip Tribes has determined that noise is a major source of environmental pollution which represents a threat to the serenity and quality of life on the Tulalip Reservation and that noise exposure may be a cause of adverse physiological and psychological effects as well as economic loss. It is the intention of this Ordinance to limit noise in housing areas and other noise sensitive areas located on the Tulalip Indian Reservation.
2. Definitions
 - a. The following definitions shall apply in the interpretation and enforcement of this Ordinance, unless otherwise specifically stated. The definitions of technical terms used which are not herein defined shall be obtained from publications of acoustical terminology issued by the American National Standards Institute (ANSI), or its successor body.
 - b. "A-weighted sound level" shall mean the sound pressure level as measured in decibels on a sound level meter using the A-weighting network. The level is designated dB(A) or dBA.
 - c. "Construction" shall mean any site preparation assembly, erection, substantial repair, alternation or similar action, for or on public or private rights of way, structures, utilities or similar property.
 - d. "Decibel" shall mean a logarithmic and dimensionless unit of measure used in describing the relative loudness of level of sound.
 - e. "Emergency" shall mean any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action
 - f. "Emergency Work" is work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.
 - g. "Industrial District" shall mean a Basic Industrial District or a General Industrial District as defined in the Zoning Ordinance of the Tulalip Tribes.
 - h. "Motor Vehicle" shall mean any motor-operated vehicle licensed or not for use on the public highways.
 - i. "Noise" shall mean any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
 - i. "Noise-sensitive activities" shall mean any activities which should be conducted under conditions of exceptional quiet, including but no limited to operation of schools, libraries open to the public, churches, hospitals and nursing homes.
 - j. "Noise-sensitive area" shall mean any area designated for the purpose of ensuring exceptional quiet and clearly posted with "Noise Sensitive Area" signs, because of the noise-sensitive activities conducted therein.
 - k. "Person" shall mean any individual, partnership, firm or corporation, or any combination of one or more of them.
 - l. "Plainly audible" shall mean a sound which can be heard at distance of one hundred (100) feet from the source where the sound emanates.
 - m. "Public right-of-way" shall mean any street, avenue, highway, lane or similar place which is owned or controlled by a government entity.

- n. "Public space" shall mean any real property including any structure thereon which is owned or controlled by a governmental entity.
- o. "Real property boundary" shall mean an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra building real property divisions.
- p. "Receiving land use" shall mean the use or occupancy of the real property which receives the transmission of sound as hereinafter defined.
- q. "Sound Level" shall mean the quantity in decibels measured with an instrument satisfying requirements of American National Standard Specifications for Type I or Type II Sound Level Meters. Fast time averaging and A-frequency weighting shall be used.
- r. "Times" shall mean Pacific Standard Time or Daylight Savings Time as observed in the State of Washington.
- s. "Type I Sound Level Meter" means a sound level meter which meets the Type I requirements of ANSI specifications for sound level matters.
- t. "Type II Sound Level Meter" means a sound level meter which meets the Type II requirements of ANSI specifications for sound level meters.
- u. "Zoning Districts" shall mean those districts established by the Tulalip Zoning Ordinance.

3. Exceptions

The provisions of this Ordinance shall not apply to:

- a. The emission of sound for the purpose of alerting people to the existence of danger;
- b. The emission of sound in the performance of emergency work;
- c. Agricultural activities;
- d. Rail and air transportation and public transportation vehicles;
- e. The emission of sound from a manufacturing, processing or assembly operation performed within an Industrial District;
- f. Church or clock carillons, bells or chimes;
- g. The emission of sound in the discharge of weapons at any firing range previously issued a permit by the Tulalip Tribes.
- h. The discharge of weapons in an area zoned Forest / Agricultural under the Tulalip Zoning Ordinances;
- i. Fireworks or firework display for which a permit has been issued by the Tulalip Tribes; or
- j. Burglar alarm when properly maintained in accordance with rules and regulations to be promulgated by the Tribal or County Police Departments.

4. Noise Disturbance Prohibited

No person shall make, continue or cause to be made or continued, excepted or permitted, any noise disturbance, or noise in excess of the limits for such noise established in this Section.

- a. With the exception of sound levels elsewhere specifically authorized by this Ordinance, Table I sets forth the maximum permissible sound levels allowed at or within the real property boundary of a receiving land

use. Any activity or use that produces a sound in excess of such noise levels of the receiving land use shall be deemed a “noise disturbance” and in violation of this Ordinance.

- b. The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed in ANSI or its successor body. The measurement of all sound levels shall be made as close to the property line of the receiving land as is practical. The measurement period shall not be less than ten (10) minutes, and the sound level measured shall not exceed the sound levels set forth in Table I by more than ten (10) percent during any measurement period.

5. Limits:

Property Line Noise Limits:

- a. It shall be unlawful for noise disturbance for any person to cause noise that exceeds the one-hour average sound level set forth in the following table, at any location on the Tulalip Reservation on or beyond the boundaries of the property on which the noise is produced. The noise subject to these limits is that part of the total noise at the specified location that is due solely to the action of said person.

TABLE 1
APPLICABLE PROPERTY LINE NOISE LIMITS

<u>Land Use Zone</u>	<u>Time of Day</u>	<u>One-Hour Average Sound Level (decibels)</u>
Conservation; Primary Forestry; Secondary Forestry; Rural Agriculture; Rural Residential; Residential Estate; Recreation	7a.m. to 7p.m.	52
	7p.m. to 10 p.m.	50
	10p.m. to 7a.m.	45
Tulalip Bay Planning Area; Suburban Residential; Multi-Family Residential.	7a.m. to 7p.m.	57
	7p.m. to 10 p.m.	52
	10p.m. to 7a.m.	47
Mixed Residential / Commercial Commercial; Industrial	7a.m. to 7p.m.	65
	7p.m. to 10 p.m.	65
	10p.m. to 7a.m.	55

- b. The sound level limit at a location on a boundary between two zoning districts is the arithmetic mean of the respective limits for the two districts.
 - c. Fixed-location public utility distribution or transmission facilities located on or adjacent to a property line shall be subject to the noise level limits of Part A of this section measured at or beyond six feet from the boundary of the easement upon which, the equipment is located.
6. Construction Noise Curfew
- a. It shall be unlawful for any person, between the hours of 7:00 p.m. and 7:00 a.m. of any day or on legal holidays and Sundays to erect, construct, demolish, excavate for, alter or repair any building or structure in such a manner as to create a disturbing, excessive or offensive noise unless a noise control permit has been applied for and granted beforehand by the Community Development Department. In granting such a permit, the Community Development Department should consider whether the construction noise in the vicinity of the proposed work site would be less objectionable at night than during the daytime; whether obstruction and interference with traffic, particularly on streets of major importance, would be less objectionable at night than during the daytime; whether the type of work to be performed emits noises at such a low level as to not cause significant disturbances in the vicinity of the work site; the character and nature of the neighborhood of the proposed worksite; whether great economic hardship would occur; if the work is in the general public interest; and he shall prescribe such conditions, working time, types of construction equipment to be used and permissible noise levels as he deems to be required in the public

interest.

- b. The provisions of subsection (a) of this Section shall not apply to emergency work as defined herein, provided that the Police Chief shall be notified in writing of such emergency work no later than forty-eight hours after work commences.

Construction Noise Limits. Except as provided in section 6.b above, it shall be unlawful for any person to conduct any construction activity so as to cause, at or within the property lines of any property zoned residential, an average sound level greater than 75 decibels during a one-hour period any time between the hours of 7:00 a.m. to 7:00 p.m. unless a variance has been applied for and granted by the Tulalip Planning Department.

General. Notwithstanding any other provisions of this Title, and in addition thereto, it shall be unlawful for any person to willfully or negligently make or continue, or cause to be made or continued, any disturbing, excessive or offensive noise causing discomfort or annoyance to any reasonable person of normal sensitiveness residing or working in the area.

Factors Determining Violations. The factors which shall be considered in determining whether a violation of the provisions of this Chapter exist shall include, but not be limited, to the following:

- a. The level of the subject noise.
 - b. The levels of ambient noise.
 - c. The proximity of the subject noise to residential sleeping facilities.
 - d. The nature and zoning of areas where the noise is audible.
 - e. The number of persons affected by the noise.
 - f. The duration and / or spectral content of the noise.
 - g. Whether the noise is continuous, recurrent or intermittent.
7. **Specific Activities Prohibited**
- a. Sales by “Hawking” or “Barking”. No person shall offer for sale, or announce to sell anything by shouting or outcry within any residential area including the use of a loudspeaker system to sell or announce anything.
 - b. Loading and Unloading. No person shall load, unload, open, close or handle boxes, crates, containers, building material, refuse, garbage cans, dumpsters, motor vehicles, or similar objects between the hours of 8:00 p.m. and 6:00 a.m. the following day as to create a noise disturbance across a residential real property boundary line.
 - c. Vehicle or motor boat repair or testing. No person shall repair, rebuild, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to create a noise across a residential real property boundary.
 - d. Power Model Vehicles. No person shall operate or permit the operation of powered model vehicles in a public or private space out-of-doors within one hundred fifty (150) feet of a residential real property boundary.
 - e. Musical Instruments and Similar Devices. No person shall operate, play or permit the operation of playing of any drum, musical instrument or similar device which produces sound in a manner as to create a noise disturbance across a residential real property boundary.
8. **Regulation of Sound Equipment and Sound Amplifying Equipment**
- a. Except for activities for which a permit has been issued by the Board of Directors, or their designee, under this Section, no person shall so operate, play or permit the operation or playing of any radio, television, tape player, compact disc player or phonograph, loudspeaker, amplifier, sound track or other device for producing, reproducing, or amplifying sound, or similar device so as to:
 - 1. Create a noise disturbance across a residential real property boundary line. However, bars, taverns, luges, nightclubs, dance halls, game rooms and similar activities which produce a noise that is plainly audible beyond the premises shall be deemed a noise disturbance in violation of this Ordinance.

2. Create a noise which is plainly audible other than to the occupant, when such device is operated in or on a private motor vehicle on a public right-of-way or public space.
 3. Create a noise which is plainly audible at distance of one hundred (100) feet in or on any public space.
- b. Sound Equipment Permitted. Except as hereafter provided, no person shall use, operate, or cause to be used or operated any radio, record player, tape deck or player, loudspeaker, amplifier, sound track or other device for producing, reproducing, or amplifying sounds, hereinafter referred to as "sound equipment" upon any private or public premises so as to produce a noise disturbance. However, the following activities when authorized by the Tulalip Planning Department in writing may use sound equipment which produces a sound not to exceed ninety (90) db(A)'s when measured at a distance of fifty (50) feet from such equipment. Where the receiving land is residential, such equipment may be used only from 9:00 a.m. to 11:00 p.m.
1. Public health and safety purposes;
 2. Fairs, carnivals and similar activities;
 3. Parades, processions, excursions and associated festivities;
 4. Outdoor concerts and theatrical performances;
 5. Outdoor neighborhood functions such as lawn and pool parties, street dances and similar activities;
 6. Civic and religious celebrations;
 7. Recreational and athletic activities.
- c. Commercial Advertising - Sound Equipment Prohibited. No sound equipment shall be permitted to be used on public streets or public places, or in any building or upon any premises if the sound therein may be plainly audible from any public street or public place when any such use is for commercial advertising purposes or for any purpose of attracting attention of the public to any structure or building for monetary gain.
9. Construction
- a. No person shall operate or permit the operation of any tools or equipment in the construction, drilling, demolition work or in preventative maintenance for public service utilities;
1. Between the hours of 10:00 p.m. and 7:00 a.m., in any manner which create a noise disturbance across a residential real property boundary.
 2. At any other time, in any manner, which creates a noise disturbance across a real property boundary; for the purpose of this subparagraph, a sound level at or across the real property boundary in excess of eighty-five (85) dBA shall be deemed a noise disturbance.
- b. The provisions of this section shall not apply to:
1. Emergency work or repair work or repair work performed by or for governmental entities or public service utilities.
 2. The use of domestic power tools or equipment as set forth in Section 6 of this Ordinance.
 3. Construction equipment that has attached in good operative condition the best noise-attenuating device as recommended by the manufacturer.
10. Animals and Birds
- No person shall own, possess or harbor a barking dog (as defined herein) or any animal or fowl which howls, barks, or emits audible sounds that are unreasonably loud or disturbing and which are of such character, intensity and duration as to disturb the peace and quiet of the neighborhood. For the purposes of this Section, "barking dog shall mean a dog that barks, bays, cries, howls or makes any other noise continuously and / or incessantly for a period of five (5) or more minutes or barks intermittently for ten (10) minutes or more to the disturbance of any person at any time of day or night regardless of whether the dog is physically situated in or upon private property; provided, however, that a dog shall not be deemed a 'barking dog' for purposes of this Ordinance,

if at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or close proximity thereto, or for any other legitimate cause which teased or provoked the dog.

11. Variance
 - a. Variance Permit. A variance permit to cause or create a noise at sound levels which would otherwise be in violation of this Ordinance may be granted by the Board of Directors upon recommendation by the Chief of Police if;
 1. Additional time is necessary for the applicant to alter or modify the activity in order to comply with the provisions of this Ordinance; or
 2. The activity, operation or noise source will be of a temporary duration and cannot be done in a manner that would comply with the provisions of this Ordinance; or
 3. No reasonable alternative is available to the applicant.
 - b. Conditions. Any permit granted pursuant to this Section shall contain therein all conditions placed upon holder of said permit as condition to the permit being granted, including but not limited to the effective date,, time of day, location, sound level limit or equipment limitation. Application for such a permit shall be made in writing in such form as its acceptable to the Tulalip Board of Directors through the Tribal Division of Tax and Licensing.
12. Administration Appeals and Remedies
 - a. The Chief of Police shall implement, administer and enforce the provisions of this Ordinance and shall issue orders requiring the abatement of all violations and revocation of permits issued.
 - b. Each violation of this Ordinance shall be a Class I Civil Infraction under the provisions of Ordinance 114.